



DEPARTMENT OF THE NAVY
BOARD FOR CORRECTION OF NAVAL RECORDS
2 NAVY ANNEX
WASHINGTON DC 20370-5100

BJG
Docket No: 5820-99
30 June 2000

NCI [REDACTED] USN
[REDACTED]
[REDACTED]

Dear Petty Officer [REDACTED]

This is in reference to your application dated 10 September 1999, seeking reconsideration of your previous application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552.

Your previous case, docket number 5265-97, was denied on 19 March 1998. In your current application, you seek reconsideration of your previous request to remove the adverse performance evaluation for 1 October 1995 to 1 September 1996, together with your rebuttal dated 29 August 1996 and the command endorsement dated 13 September 1996. By implication, you now request replacement of this evaluation with a revised evaluation for the same period, incorporating the changes shown in the reporting senior's letter-supplement dated 8 December 1998; and you further impliedly request removal of the letter-supplement, which reveals how you had been appraised in the contested original evaluation. Finally, you add a new request to remove the evaluation for 2 September 1996 to 15 January 1997.

A three-member panel of the Board for Correction of Naval Records, sitting in executive session, reconsidered your case on 29 June 2000. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your current application, together with all material submitted in support thereof, the Board's file on your prior case, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the Navy Personnel Command dated 28 February and 25 May 2000, copies of which are attached. They also considered your undated rebuttal letter with enclosure.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board substantially concurred with the comments contained in the advisory opinions. Accordingly, the Board again voted to deny relief. The names and votes of the members of the panel will be furnished upon request.

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It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER
Executive Director

Enclosures



5820-99

DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
28 FEB 00

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: NC1 [REDACTED] USN, [REDACTED]

Ref: (a) BUPERSINST 1610.10, EVAL Manual

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests removal of his performance report for the period 1 October 1995 to 1 September 1996, replacing it with a letter-supplement.

2. Based on our review of the material provided, we find the following:

a. A review of the member's digitized record revealed the reports in question, along with a letter-supplement to be on file. The member signed the report indicating his desire to submit a statement. Both the member's statement and command's endorsement are on file.

b. The member feels that the letter-supplement for the period in question should replace the original report, due to the reporting senior stating "Information received after this report was written justifies these higher grades", and reinstating his promotion recommendation.

c. A letter-supplement cannot replace an original performance report. However, even if a supplemental performance report had been submitted vice a letter-supplement, we would not recommend substitution of the original report. We provide reporting seniors with the facility to add material to performance reports not replace them. We believe that the appropriate action is to retain both the original report and letter-supplement. This will provide a complete picture of the member's performance as originally evaluated and revised.

Subj: NC [REDACTED] [REDACTED], USN, [REDACTED]

d. The member does not prove the report to be unjust or in error.

3. We recommend retention of the original report, along with the letter-supplement.

[REDACTED]

Head, Performance
Evaluation Branch

5420-99



DEPARTMENT OF THE NAVY
NAVY PERSONNEL COMMAND
5720 INTEGRITY DRIVE
MILLINGTON TN 38055-0000

1610
PERS-311
25 May 2000

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF
NAVAL RECORDS

Via: PERS/BCNR Coordinator (PERS-00ZCB)

Subj: NC [REDACTED] US [REDACTED]

Ref: (a) BUPERSINST 1610.10 EVAL Manual
(b) Our Memo 1610 PERS-311 of 28 February 2000

Encl: (1) BCNR File

1. Enclosure (1) is returned. The member requests reconsideration to remove his performance evaluation for the periods 1 October 1995 to 1 September 1996 and 2 September 1996 to 15 January 1997.

2. Based on our review of the material provided, we find the following:

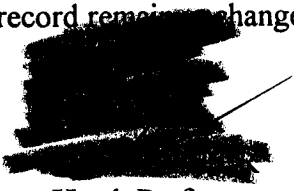
a. A review of the member's headquarters record revealed both reports to be on file. They are signed by the member acknowledging the contents of each and his right to submit a statement. The member indicated he did desire to submit a statement for the report for the period 1 October 1995 to 1 September 1996 and not to submit a statement for the report for the period 2 September 1996 to 15 January 1997. The member's statement and reporting senior's endorsement is properly reflected in his record.

b. We have reconsidered Petty Officer [REDACTED] competition based on the additional material presented. Our comments in reference (b) remain valid.

c. The performance evaluation for the period 2 September 1996 to 15 January 1997 is a Special/Regular report prepared to recommend the member for advancement. This report is a valid report.

d. The member does not prove the report to be unjust or in error.

3. We recommend the member's record remain unchanged.

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Head, Performance
Evaluation Branch